



MAY 15 2013

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CITY OF SAN BRUNO

COMMUNITY DEVELOPMENT DEPARTMENT

2081 Whitman Way

Request for Renewal of a Use Permit for condominium conversion per Chapter 12.128.020 of the San Bruno Municipal Code. Marymount Place, LLC (Applicant and Owner) UP09-006.

Commissioner Marshall recused himself.

Associate Planner Russell: Entered staff report.

Staff recommends that the Planning Commission approve the Renewal of UP09-006 based on Findings of Fact (1-3) and Conditions of Approval (1-36).

Chair Biasotti asked Commission if there were any questions for staff.

Vice Chair Petersen: When is condition No. 3 required to take place?

Associate Planner Russell: The draft CC&R's have been received by staff. We had the initial draft at the time of the 2009 approval and since then we have received a revised draft. The actual creation of the HOA is regulated by the Department of Real Estate. Perhaps the applicant or the City Attorney can elaborate if you would like.

City Attorney Zafferano: That is correct, it is regulated by the Department of Real Estate. I do not have the exact number of days available, however, the CC&R's have to be developed and approved by the DRE before any of the lots are put on the market.

Public Comment Opened.

Jasbir Walia; Applicant: I would like to thank the Commission for reviewing our request. We are very excited to get to this stage of the project and assist 48 families into the condos. We have spent a lot of time and money on this project to provide quality condominiums.

James; Resident at 2081 Whitman Way: If you give them a renew date you should also reset the benefits owed to all of the residents. These people are San Bruno residents; they are the people you are supposed to be protecting. I moved to this apartment building in 1977. My wife died in that apartment and I was planning to do the same. At the past two failed attempts to convert the apartments into condominiums, the City had a heart then. We will see if you still have a heart after your actions tonight. Let's get one thing straight, you are only offering us the minimum that the State requires you to offer. I feel I'm getting kicked out of San Bruno right now, and the rest of the residents in the building are getting kicked out too. The cost of rent in San Bruno has skyrocketed and is not affordable. The benefits you are offering the residents do not add up anymore, \$6,600 for four months is a joke. You are not helping San Bruno; you are helping yourselves if you pass this without resetting the benefits.

James O'Connor; Resident at 2081 Whitman Way: I am concerned with the quality of the renovation. They recently installed a fire suppression system, which is simply exposed water pipe through out the building. I have lived in this building for two years and there is no display of quality or workmanship. I am concerned with the finished look of this project.

Kevin Duca; Resident at 2081 Whitman Way: I have been in construction for thirty years. I have been watching this construction very closely and they are covering up dry rot without making the

proper repair and no one is looking at it. I feel the tenants should be given a firm date of when they will need to move out. I have been working for the union my entire life and these people they have working out there are being paid in cash. That is not right. This is the worst labor I have seen in my life, these guys do not know what they are doing and the quality is poor. The general contractor walked off the job because he wasn't being paid when he was attempting to perform quality work. I think these guys that are doing the job right now have not met the qualifications to even do the exterior work right, let alone do the interior right.

Public Comment Closed.

Commissioner Chase: The concern of the residents regarding the quality of construction definitely raises a red flag for me. I would assume there have been inspections through out the entire construction process. Correct?

CDD Director Woltering: That is correct, with the benefit of a permit the project is required to have inspections.

Commissioner Chase: The last resident brought up concern that there was dry rot being covered up rather than repaired. How do the building inspectors inspect or treat this type of situation?

CDD Director Woltering: As work is being done at this site with the benefit of a permit, there would be regular inspections. The contractor would need to contact our Building Division and schedule inspections in order to have a final. The inspectors would need to perform all required inspections prior to a final sign off.

Commissioner Chase: If poor quality construction is visible to the eye would that raise concern for the inspectors that the construction is not done correctly?

CDD Director Woltering: We can arrange for our Chief Building Official to visit the site and do a follow up inspection.

Associate Planner Russell: We did receive complaints regarding the dry rot. Our Building Official went out to the site and verified the issues. He then opened up a Code Enforcement case on the property. The contractor pulled a separate permit to alleviate the dry rot issues. There was also a building issues report that was done by an engineer at the time of the initial submittal for the condominium conversion. At that time, there were dry rot conditions that were identified and have to be rectified as part of the conditions of approval for the project. The applicant will be required to submit documentation to staff demonstrating how those dry rot conditions were remedied, by whom and at what time. The Building Official has informed me that the conditions he has inspected himself met the Building Code standard.

Commissioner Sammut: Has the dry rot that was noted been repaired or is it in the process of being repaired?

Associate Planner Russell: The dry rot was repaired and the permit was finalized. Other dry rot repair will be wrapped up in a future phase, which is why staff added the condition of approval that the applicant is to submit a report that summarizes the dry rot repair.

Commissioner Sammut: Is there currently an open permit for the exterior work?

Associate Planner Russell: Yes.

Commissioner Sammut: Does the City have any discretion on the payout to the residents?

Associate Planner Russell: The minimum requirements come from State law and are essentially duplicated in our Municipal Code.

Vice Chair Petersen: I would like to ask the applicant to come forward; I would like to ask a question.

Vice Chair Petersen: Do you know if any of the workers were paid in cash?

Arjun Bhagat, Applicant: Absolutely not. There would not be a way for us to develop cash for this type of project. We have to process expense reports for tax purposes. Please keep in mind that we are very aware that over the years, lawyers who are trying to make class action suits attack condo conversions. We would not perform poor quality workmanship; there is too much at risk for us related to any of these accusations.

Commissioner Sammut: You don't pay the workers, right? You hire the general contractor who pays the works.

Arjun Bhagat, Applicant: Absolutely correct.

Commissioner Chase: For the City Attorney, if none of the commissioners come forth with a motion, what happens?

City Attorney Zafferano: The Commission would have a number of options. You could make a motion to approve, deny, or to continue the item and request that staff come back with some additional information.

Vice Chair Petersen: I think there have been some serious issues brought up tonight. On the other hand, I feel the presentation given by staff and the applicant, it is clear that there is a process to be followed that seems appropriate. If there are construction issues, those can be dealt with by the labor law. The complaints of inspection quality can be forwarded to and handled by staff. I would make a motion.

Chair Biasotti: I am going to second that motion based on the applicant is already assuming the legal responsibility for potential of a lawsuit. We are here to review a construction project not how it is funded.

Vice Chair Petersen: There is a path to move forward and complete this condo conversion. I would argue for the commission to approve the project and allow staff to deal with the complaints of the construction and inspection concerns of the residents.

Motion to approve renewal of Use Permit 09-006 based on Findings of Fact (1-3) and Conditions of Approval (1-36).

Commissioner Petersen/ Biasotti

VOTE: 2-2

AYES: Chair Biasotti and Vice Chair Petersen

NOES: Commissioners Chase and Sammut

ABSTAIN: Marshall (had previously recused himself)

City Attorney Zafferano: That motion did not pass and fails on a 2-2 vote. At this time, someone may want to entertain making a different motion.

Motion to continue Use Permit 09-006.

Commissioner Biasotti/ Chase

Vice Chair Petersen: What would be accomplished from now until a further meeting?

Commissioner Chase: I would like to see proof of workmanship in regards to the overall quality of the project. I am not opposed to the conversion itself; however, I am opposed to poor quality work.

Commissioner Sammut: I would consider approval if a member of the Building Division could meet with the residents to allow them the opportunity to express their concerns. They would be able to get clarity on the inspection process and have their concerns and questions addressed.

Chair Biasotti: This conversation process is now public record. If these issues are not corrected could this be a starting point for a lawsuit?

City Attorney Zafferano: That is hard to determine in advance what anyone could sue for. I think the issue before the Planning Commission would be whether or not to continue this item to obtain additional information or facts on the allegations made here tonight to satisfy everyone that the work is being done properly and according to Code and State law.

Vice Chair Petersen: I do not like the allegations made here tonight just as much as everyone else. I have been in construction and project management for years and I think if we direct the staff to meet with the residents to examine the areas that are out of order. Is this reasonable to request and could it be accomplished?

CDD Director Woltering: Condition of approval numbers 11 and 13 within the staff report clearly indicate that the necessary repairs will need to be corrected prior to receiving a final inspection. I think it is vital that these conditions of approval are met. I am not sure it would be beneficial to meet with the current tenants at this time. I think what is more important is to make sure that these conditions of approval are properly satisfied and that the work meets the Uniform Building Code and State law requirements. If you were to continue the item tonight we could consult with our Building Division staff and get an update in terms of inspections that have been done and the current conditions of the property.

Vice Chair Petersen: The issue I am looking to address is the concern that there are areas of dry rot that have been covered without the benefit of inspection. Do you think you can implement a procedure were you look at these areas of concern?

CDD Director Woltering: We can certainly attempt to meet with these residents. We can go to the site and perform inspections. I am concerned with the extent of comment and the level of inspections that may entail. However, we would be able to do some level of investigation on the issues. We want to ensure the inspections are thorough and accurate.

Commissioner Sammut: I can move forward on this.

City Attorney Zafferano: There is a pending motion on the floor that will need to be withdrawn.

Motion to continue Use Permit 09-006 withdrawn by Biasotti.

Motion to approve renewal of Use Permit 09-006 based on Findings of Fact (1-3) and Conditions of Approval (1-36).



Commissioner Petersen / Sammut

VOTE: 3-1

AYES: Commissioner Sammut, Chair Biasotti and Vice Chair Petersen.

NOES: Commissioner Chase.

ABSTAIN: Marshall (had previously recused himself)

Chair Biasotti advised of a 10-day appeal period

#### FINDINGS OF FACT

1. The project will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use.
2. The project will not be injurious or detrimental to property and improvement in the neighborhood or to the general welfare of the city.
3. The project is consistent with the general plan.

#### CONDITIONS OF APPROVAL

##### Community Development Department

1. The applicant shall file a declaration of acceptance of the following conditions by submitting a signed copy of the Summary of Hearing to the Community Development Department within 30 days of Planning Commission approval. Until such time as the Summary is filed, the renewal of UP09-006, ~~AR09-003, and V09-002~~ shall not be valid for any purpose. UP09-006 shall expire on December 15, 2013 ~~AR09-003, and V09-002 shall expire two (2) years from the date of Planning Commission approval unless a building permit has been secured for Phase 1 as described in this staff report. prior to the two (2) year date.~~
2. The request for a condominium conversion shall be carried out according to plans and Conditions, Covenants and Restrictions (CC&R's) approved by the Planning Commission on December 15, 2009, except as required to be modified by these Conditions of Approval. Any modification to the approved plans shall require prior approval by the Community Development Director.
3. A Home Owner's Association (HOA) shall be formed and a set of Conditions, Covenants and Restrictions (CC&R's) shall be recorded. The final CC&R's shall be consistent with the draft approved by the Planning Commission on December 15, 2009 and shall be approved by the Community Development Director prior to recordation. The final CC&R's shall supersede any previously recorded CC&R's. The CC&Rs shall clearly address, amongst other things, the parking rules within the development, landscaping maintenance, and contact information for the HOA for any correspondence from the Community Development Department regarding code enforcement violations for any common areas of the parcel.

4. Any demolition or addition to the floor area shall require an amendment to the Condominium Plan. Any such amendment application will be processed and reviewed in the same manner as a Residential Use Permit, as outlined in Chapter 12.112 of the San Bruno Municipal Code. At the discretion of the Community Development Director, renovation or change in floor plan will also require review.
5. Any change to the exterior of the buildings shall require an Architectural Review Permit, as outlined in Chapter 12.108 of the San Bruno Municipal Code.
6. The HOA shall be responsible for maintenance of the landscaping for the life of the project, including the planting areas located in the public right of way between the sidewalk and property line. Professional level landscape maintenance shall be required, including trimming, weeding, and plant replacement. Failure to maintain landscaping will result in Code Enforcement action by the City.
7. The HOA or residents shall not be permitted to reduce the amount of landscaping on site or create any additional impervious surfaces without the approval of the Community Development Director. Any reduction in landscaped area will result in Code Enforcement action by the City.
8. The development shall comply with Section 1207 of the 2007 California Building Code related to sound transmission to the satisfaction of the Building Official. The sound transmission and sound insulation improvements shall be disclosed to future buyers and noted within the CC&Rs. At the time of building permit submittal for each phase, the applicant shall include sound insulation details for review and approval.
9. The applicant shall obtain a condominium license and pay the required license tax as described in Municipal Code section 3.16.160 prior to the issuance of a building permit for Phase 1.
10. The applicant shall implement tenant relocation assistance and benefits as described in the staff report and as required by Municipal Code chapter 12.88. Exhibit B of the staff report shall be implemented to the satisfaction of the Community Development Director. Prior to building permit issuance for Phase 1, the applicant shall hold two meetings on different days covering the same content, as described in Exhibit B. Prior to issuance of a building permit for subsequent phases, the applicant shall hold a meeting for tenants affected by that phase with a qualified professional to help tenants find comparable housing within the area. At this meeting, specific relocation benefits will also be reviewed.
11. The applicant shall make the repairs identified in Table 1 of the Property Conditions Report. Prior to the sale of any units, the applicant shall submit a written statement to Planning staff for review and approval describing the repairs, when they were made, and by whom.

12. The applicant shall make the necessary financial contribution to the HOA reserves to fully address the items identified in Table 2 of the Property Conditions Report. The applicant shall submit documentation showing that this contribution has been made to the satisfaction of the Community Development Director.
13. The applicant shall repair all deficiencies listed in the pest control report. Prior to the sale of any units, the applicant shall submit a written statement to Planning staff for review and approval describing the repairs, when they were made, and by whom.
14. Prior to Final Inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the City of San Bruno.
15. The signed copy of the Summary of Hearing shall be photocopied and included as a full size page in the Building Division set of drawings for each phase of construction.
16. Prior to issuance of a building permit for each phase of construction, the applicant shall hold a pre-construction meeting with the contractor and City staff. At this meeting, the applicant shall supply documentation showing that all tenant relocation benefits have been provided.
17. Prior to issuance of a building permit, the applicant shall hold a pre-construction meeting with the contractor, Community Development staff, and residents of Park Plaza to review the final construction schedule and to provide the residents with the contact information for a responsible person during construction. This requirement shall be satisfied as described in Exhibit B. Two meetings shall be offered at different times with the same content to accommodate schedules.
18. The applicant shall obtain a City of San Bruno building permit for each phase before construction can proceed. The operation of any equipment or performance of any construction related to this project shall be limited to 7:30 a.m. to 6:00 p.m. Monday through Saturday.
19. The carports and surface parking areas shall be used for parking of motor vehicles and shall not be enclosed or used as general storage.
20. Before a building permit can be issued for any interior remodel of housing units, the applicant shall submit a construction, seminar, and sales schedule to the Community Development Director for review. This schedule shall be in sufficient detail that staff can verify when tenants will be required to move, what seminars will be available to them, and when relocation benefits will be available to them. Upon Community Development Director approval of the schedule, the applicant shall hold a tenant meeting to review the schedule. This requirement shall be implemented as described in Exhibit B.
21. At a tenant seminar, the applicant shall provide an expert to speak on the Affordable Housing programs available in the area and how to qualify for those programs. (This shall

be in addition to information provided on market rate housing.) This requirement shall be implemented as described in Exhibit B.

22. The applicant shall include a bicycle rack on the Building Division plan submittal.
23. Prior to any rental increase, the applicant shall submit a statement to the Community Development Director to ensure consistency with Municipal Code 12.88.120. This requirement shall remain in effect through the entire conversion process. If qualifying seniors or people with disabilities exercise their five-year guaranteed occupancy, this requirement shall extend through that five-year period.
24. Prior to the sale of any units, the exterior improvements and landscaping shall be completed and the units shall be remodeled as described in the staff report to the satisfaction of the Community Development Director.

#### Public Services Department

25. Storm water shall be contained onsite and directed into a closed system then into the City stormdrain system to the satisfaction of the City Engineer. Storm water shall not drain onto adjacent properties or the City sidewalk.
26. Encroachment Permit from Public Works Department is required prior to commencing any work within the City's public right-of-way. S.B.M.C. 8.16.010.
27. All damaged curb, gutter, sidewalk or driveway in the public right-of-way fronting the property shall be removed and replaced. Remove and replace all damaged and/or broken sidewalk at front of property for all location where there are any raised or offset concrete sections greater than or equal to 3/4 -inch. S.B.M.C. 8.12.010.
28. Erosion control plan and storm water pollution prevention plan required. Must show existing storm drain inlets and other storm water collection locations protect by silt screens or silt fence. Work shall conform to the current NPDES requirements. S.B. Municipal Code 12.16.020.

#### San Bruno Cable

29. The applicant shall provide wiring within the residences that will consist of RG6 (77% braid) cable and routed in homerun design for each outlet. Additional outlets shall be wired homerun to the main gang box. Outlets are usually in each bedroom and the living room. All cables shall conform to San Bruno Cable department's requirements.

#### Fire Department

30. Due to the limited access for fire apparatus, in accordance with Section 901.4.3 of the



2007 California Fire Code, additional safeguards shall be required such as fire sprinklers coverage throughout, a fire alarm system to evacuate residents and 2 1/2" standpipes shall be located throughout so that a 150' length of fire hose shall access all parts of the complex to the satisfaction of the Fire Marshal.

31. The unit numbering system will be a 3-digit numbering system using the first digit to identify the building, the second digit to identify the floor and the last digit to identify the unit number. The units shall be re-numbered in early December 2013, at approximately the time tenants from Phase 1 move out, to the satisfaction of the Fire Marshal and Community Development Director.

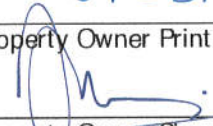
Police Department

32. Adequate lighting of driveways, circulation areas, and grounds contiguous to buildings shall be provided with enough lighting of sufficient wattage to provide adequate illumination to make clearly visible the presence of any person on or about the premises during the hours of darkness and provide a safe secure environment for all persons, property, and vehicles on site.
33. Landscaping shall be of the type and situated in locations to maximize observation while providing the desired degree of aesthetics.
34. New exterior lighting shall be installed in the area between Building B and Whitman Way. Lighting shall be included on the Building Division plan submittal and approved by Planning staff.
35. New exterior lighting shall be installed on the east side of the complex to illuminate the new staircase and a portion of the open next to the site.

Parks Division

36. Permit from Parks required for all tree removal, pruning, or planting. S.B.M.C. 8.24.050/070/110.

Dated: May 9, 2013

JASBIR WALIA 5/10/13  
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Property Owner Print Name Date  
 5/10/13  
\_\_\_\_\_  
Property Owner Signature Date

\_\_\_\_\_  
Applicant Print Name Date

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Applicant Signature Date